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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

HENRY H.,

Defendant and Appellant.

A124322

(Alameda County  
Super. Ct. No SJ08011578)

Appellant seeks review of a dispositional order of the juvenile court committing him to the Department of Juvenile Justice (DJJ). Appellant was determined to be a ward of the court by his admission to an allegation in a petition under Welfare and Institutions Code section 602 of assault with a deadly weapon (Pen. Code, § 245(a)(2)) with personal infliction of great bodily injury (Pen. Code, § 12022.7).

Assigned counsel has submitted a *Wende*<sup>1</sup> brief, certifying that counsel has been unable to identify any issues for appellate review. Counsel has also submitted a declaration confirming that appellant has been advised of his right to personally file a supplemental brief raising any points which he wishes to call to the court's attention. No supplemental brief has been submitted. As required, we have independently reviewed the record. (*People v. Kelly* (2006) 40 Cal.4th 106.) We find no arguable issues and therefore affirm.

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<sup>1</sup> *People v. Wende* (1979) 25 Cal.3d 436.

## BACKGROUND

On December 27, 2008,<sup>2</sup> appellant was apprehended by Oakland Police shortly after shooting Cesar Uribe as Uribe drove past appellant in the 1100 block of 58th Avenue in Oakland.<sup>3</sup> The bullet struck Uribe in the left bicep, passing through his arm and lodging in his chest. Shots were also fired at a witness.

On December 30, 2008, appellant was charged by Juvenile Wardship Petition with two felony offenses—count 1, an assault with a deadly weapon (Pen. Code, § 245(a)(2)); and count 2, discharge of a firearm at an occupied vehicle (Pen. Code, § 246). In the first count it was alleged that he personally used a firearm (Pen. Code, § 12022.5(a)) and that he personally inflicted great bodily injury (Pen. Code, § 12022.7). On the second count, it was alleged that he personally discharged and used a firearm proximately causing great bodily injury (Pen. Code, § 12022.53, subd. (d)), and that he inflicted great bodily injury (Pen. Code, § 12022.7).

Appellant was 17 years old at the time of these offenses and a member of the Sureños street gang. The district attorney sought to have appellant determined to be unfit for juvenile court treatment pursuant to Welfare and Institutions Code section 707, subdivision (b). On February 19, 2009, appellant appeared before the court with counsel and admitted, by plea of no contest, the allegations of count 1 of the petition and the great bodily injury clause enhancement. Appellant, with assistance of a Spanish language interpreter, waived his right to a jurisdictional hearing on the charges. The court found appellant's waiver of rights to be knowing and voluntary and reviewed the probation

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<sup>2</sup> The Petition states in count 1 that the date of the offense was December 28, 2008. The police reports, and all other charging allegations, indicate that the offense date was December 27, 2008.

<sup>3</sup> The underlying facts are set forth in the Oakland Police Department reports attached to the petition and in the dispositional report prepared by the Probation Department.

intake jurisdiction report to confirm the factual basis for the plea. On motion of the district attorney, the remaining count, and the additional enhancement clauses were dismissed, reserving restitution on the dismissed count. The prosecution also dismissed the motion pursuant to Welfare and Institutions Code section 707, subdivision (b).

At the dispositional hearing on March 5, 2009, the court considered the dispositional report of the Probation Department, recommending commitment to DJJ, and the presentations of counsel. After considering the nature of the offense, the available sentencing alternatives and in particular the needs of the minor, the court made findings, including findings that the welfare of the appellant required that custody be taken from his parent or guardian (Welf. & Inst. Code, § 726, subd. (c)), and that his “mental and physical conditions and qualifications are such as to render it probable that [he] will be benefited by the reformatory educational discipline or other treatment provided by the [DJJ] (734 W&I).”

Appellant was adjudged to be a ward of the court and was committed to the DJJ for a maximum term of seven years, with credit for time served of 69 days, payment of a restitution fine, and restitution to the victim. On March 13, 2009, appellant filed a timely notice of appeal from the dispositional order and the supporting finding of the court.

#### DISCUSSION

By statutory mandate, the juvenile court must find a commitment to DJJ to be a probable benefit to the minor. (Welf. & Inst. Code, § 734.)<sup>4</sup> The standard of review of juvenile court commitment decisions is well established. “The decision of the juvenile court or superior court may be reversed on appeal only upon a showing that the court abused its discretion in its commitment of the minor. A reviewing court must indulge in

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<sup>4</sup> “No ward of the juvenile court shall be committed to the Youth Authority unless the judge of the court is fully satisfied that the mental and physical condition and qualifications of the ward are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by the Youth Authority.” (Welf. & Inst. Code, § 734.)

all reasonable inferences to support the findings of the juvenile court, and such findings will not be disturbed on appeal when there is substantial evidence to support them.’ ” (*In re Jose R.* (1983) 148 Cal.App.3d 55, 59-60.) Our examination of the record indicates the requisite evidentiary support for the specific findings made by the trial court. (*In re Robert D.* (1979) 95 Cal.App.3d 767, 773.)

No arguable issues are presented.

DISPOSITION

The judgment is affirmed.

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Bruiniers, J.\*

We concur:

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Jones, P. J.

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Simons, J.

\* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.